

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

WONDERWORK, INC.,

Debtor.

VINCENT A. SAMA, as Litigation Trustee  
of the WW Litigation Trust,

Plaintiff,

- against -

BRIAN MULLANEY, HANA FUCHS,  
THEODORE DYSART, RAVI KANT,  
JOHN J. CONEYS, STEVEN LEVITT,  
CLARK KOKICH, STEVEN RAPPAPORT,  
RICHARD PRICE, and MARK  
ATKINSON,

Defendants.

Chapter 11

Case No. 16-13607-smb

Adv. Pro. No. 18-1873-smb

**ORDER ON DEFENDANTS'  
MOTIONS TO DISMISS**

This matter having come before the Court on the motions to dismiss of Defendants Brian Mullaney (ECF Doc. #28-29), Hana Fuchs (ECF Doc. #30-31), Theodore Dysart (ECF Doc. #22-23), John J. Coneys (ECF Doc. #19-20), Clark Kokich, Steven Levitt, Richard Price, and Steven Rappaport (ECF Doc. #24, 26, 37), and Mark Atkinson (ECF Doc. #26); and Plaintiff Vincent A. Sama, as Litigation Trustee of the WW Litigation Trust, having requested in his opposition brief (ECF Doc. #36) leave to amend any legally deficient claims asserted in the Complaint; and the Court having entered a Memorandum Decision Granting in Part and Denying in Part Defendants' Motions to Dismiss (ECF Doc. #70, "Memorandum Decision"); now, therefore, for reasons set forth in the Memorandum Decision, it is hereby:

ORDERED, that the First and Second Claims for Relief in the Complaint are dismissed; and it is further

ORDERED, that the Third Claim for Relief in the Complaint is dismissed, except insofar as it asserts a claim for breach of fiduciary for submitting declarations in support of the Debtor's opposition to HelpMeSee, Inc.'s motion for a chapter 11 trustee without adequate investigation; and it is further

ORDERED, that Defendants Brian Mullaney's and Hana Fuchs' motions to dismiss the Complaint as against them are granted in part and denied in part, as set forth in the Memorandum Decision; and it is further

ORDERED, that Plaintiff's motion for leave to amend is hereby granted; and it is further

ORDERED, that Plaintiff may file an amended complaint on or before February 14, 2020, and if he does so, the parties shall confer and advise the Court by February 21, 2020 as to how they intend to proceed; and it is further

ORDERED, that Defendants' deadline to file a motion for reargument is extended to February 28, 2020; and it is further

ORDERED, in the event that Plaintiff does not file an amended complaint, Defendants shall answer the complaint on or before February 28, 2020, unless on or before such date he or she has moved for reargument or reconsideration.

Dated: New York, New York

**February 3, 2020**

**/s/ STUART M. BERNSTEIN**

Honorable Stuart M. Bernstein  
United States Bankruptcy Judge